

(1)S.B.CIVIL WRIT PETITION NO.3772/2001
(M/s Sidharth Marmo (Pvt.) Ltd. v. Ajmer Vidyut Vitran
Nigam Ltd., Ajmer & Ors.)

(2)S.B.CIVIL WRIT PETITION NO.376/2002
(M/s Sidharth Marmo (Pvt.) Ltd. v. Ajmer Vidyut Vitran
Nigam Ltd., Ajmer & Ors.)

Date of Order :: 20th July, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. J.L.Purohit, for the petitioner.
Mr. Ravi Bhansali, for the respondents.

....

After making an inspection on basis of Load Survey Report, it was observed that the consumer (petitioner) abstracted electrical energy without allowing the meter to record it by using external means, accordingly, a decision was taken to discontinue electricity connection as per general conditions of supply. Being aggrieved by the same the petitioner preferred a writ petition (SBCWP No.3772/2001) wherein while issuing notice to show cause to the respondents an interim order was passed by this Court to restore electricity connection subject to the condition the petitioner furnishes a bank guarantee before this Court to the effect that in the event of dismissal of the writ petition the amount will be payable to the respondents capable of being subsequently adjusted against whatever amount the petitioner be found liable to pay. In pursuant to the interim order aforesaid the electricity connection was

restored. However, during pendency of the writ petition referred above, a final assessment of abstracted electrical energy was made and that was challenged by another writ petition (SBCWP No.376/2002) and that too came to be admitted by this Court with an interim direction not to take any coercive process against the petitioner.

while assailing validity of the final assessment, the contention of counsel for the petitioner is that no adequate opportunity of hearing was given by the respondent Corporation to the petitioner before making final assessment. It is stated that on 11.12.2001 at 5 PM a notice was received by the petitioner to attend the office of the Deputy Chief Engineer on 12.12.2001. The survey report served upon the petitioner was not complete but the order of final assessment was made on 21.12.2001 by the competent authority of the respondents. According to the petitioner, as a matter of fact no adequate opportunity was given to contest the provisional assessment that ultimately culminated into final assessment order. The fact about service of notice on 11.12.2001 at 5 PM and supply of incomplete survey report is not denied by the respondents. The principles of fair play requires that to meet provisional assessment and survey report, adequate opportunity should be given to the consumer. In the instant matter the survey report itself was incomplete

and, therefore, I am satisfied that before passing final assessment order adequate opportunity was not afforded to the petitioner. In view of it, the order of final assessment dated 21.12.2001 deserves to be quashed.

Accordingly, both the writ petitions are disposed of and the order impugned dated 21.12.2001 is quashed. The bill, as a consequent thereto, is also quashed. The assessing authority is directed to decide the matter afresh by affording an opportunity of hearing to the petitioner. The bank guarantee furnished by the petitioner in pursuant to the order passed by this Court in SBCWP No.3772/2001 shall remain in currency and in the event the final assessing authority affirms the assessment, the amount will be payable to the respondent No.1 capable of being subsequently adjusted against the petitioner's liability. In the event the petitioner be not held liable for any dues, the bank guarantee furnished by the petitioner shall be released.

No order to costs.

(GOVIND MATHUR), J.

Kkm/ps.